

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

AMY BARNES,

Plaintiff,

v.

COBB COUNTY, GEORGIA,  
OFFICERS BRIAN SCURR, and  
DIPA PATEL, in their individual  
capacity,

Defendants.

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CIVIL ACTION  
FILE NO. 1:14-cv-00948-TWT

**DEFENDANTS' INITIAL DISCLOSURES**

COMES NOW Defendants in the above-styled case, and, pursuant to Fed.R.Civ.P. 26(a), L.R. 26.1(B), NDGa., makes the following Initial Disclosures. These disclosures are based upon and therefore limited by records and information in existence, presently recollected, and thus far discovered in the course of preparing these disclosures. Therefore, Defendants reserve the right to make changes in these disclosures if it appears that at any time inadvertent errors or omissions have been made or additional or more accurate information has become available.

DISCLOSURE 1

If the Defendants are improperly identified, state Defendants' correct identification and state whether Defendants will accept service of an amended

summons and complaint reflecting the information furnished in this disclosure response.

RESPONSE TO DISCLOSURE 1

The Defendants are properly identified.

DISCLOSURE 2

Provide the names of any parties whom Defendants contend are necessary parties to this action, but who have not been named by plaintiff. If Defendants contend that there is a question of misjoinder of parties, provide the reasons for Defendant's contention.

RESPONSE TO DISCLOSURE 2

None.

DISCLOSURE 3

Provide a detailed factual basis for the defense or defenses and any counterclaims or cross-claims asserted by Defendants in the responsive pleading.

RESPONSE TO DISCLOSURE 3

The two named individual defendants are POST certified law enforcement officers for Cobb County. On April 8, 2012 they were investigating a suspicious person outside of a closed business when Plaintiff confronted them by screaming out to the officers, words to the effect, "Fuck the police, Fuck the Police, Cobb police suck" while also displaying her middle finger in a vulgar gesture. The scene

had children present. Plaintiff was detained by the individual Defendant officers and arrested. An arrest warrant was secured for Plaintiff. Ultimately, a Cobb State Court Judge dismissed the criminal charges against Plaintiff.

Officers Scurr and Patel did not know Amy Barnes and had not had any contact with her prior to this incident. The Defendants acted appropriately and constitutionally in all their contact with Plaintiff. Defendants complied with all their obligations under the law. Plaintiff's Complaint fails to state a claim against Defendants under any of the theories asserted in the Complaint. All of the defenses are self-explanatory.

#### DISCLOSURE 4

Describe in detail all statutes, codes, regulations, legal principles, standards and customs or usages, and illustrative case law which Defendants contend are applicable to this action.

#### RESPONSE TO DISCLOSURE 4

- 1) 1st and 4<sup>th</sup> Amendment, United States Constitution;
- 2) 42 U.S.C. § 1983;
- 3) *Hope v. Pelzer*, 536 U.S. 730 (2002);
- 4) *Saucier v. Katz*, 533 U.S. 194 (2001);
- 5) *Pearson v. Callahan*, 555 U.S. 223, 129 S.Ct. 808 (2009);
- 6) *Gooding v. Wilson*, 405 U.S. 518 (1972);

- 7) *Turner v. State*, 274 Ga. App. 731 (2005);
- 8) *Lundgren v. State*, 238 Ga. App. 425 (1999);
- 9) *Howard v. Miller*, 222 Ga. App. 868 (1996);
- 10) *Crosby v. Monroe Cnty.*, 394 F.3d 1328 (11<sup>th</sup> Cir. 2004).

#### DISCLOSURE 5

Provide the name and, if known, the address and telephone number of each individual likely to have discoverable information that you may use to support your claims or defenses, unless solely for impeachment, identifying the subjects of the information. (Attach witness list to Initial Disclosures as Attachment A.)

#### RESPONSE TO DISCLOSURE 5

See Attachment A. These witnesses may have information related to Plaintiff's Complaint, Defendants' treatment of her, and Defendants' policies and training. Defendants may add other persons after full investigation. Defendants anticipate they will also incorporate those names Plaintiff identifies in her Initial Disclosures.

#### DISCLOSURE 6

Provide the name of any person who may be used at trial to present evidence under Rules 702, 703, or 705 of the Federal Rules of Evidence. For all experts described in Fed.R.Civ.P. 26(a)(2)(B), provide a separate written report satisfying the provisions of that rule. (Attach expert witness list and written reports to Initial Disclosures as Attachment B.)

RESPONSE TO DISCLOSURE 6

Defendants have made no decisions regarding the use of expert witnesses.

DISCLOSURE 7

Provide a copy of, or description by category and location of, all documents, data compilations, and tangible things in your possession, custody or control that you may use to support your claims or defenses unless solely for impeachment, identifying the subjects of the information. (Attach document list and descriptions to Initial Disclosures as Attachment C.)

RESPONSE TO DISCLOSURE 7

See Attachment C. These items may relate to Plaintiff's claims. Defendants may add further items after additional investigation. Defendants also incorporate those materials Plaintiffs identified in their Initial Disclosures.

DISCLOSURE 8

In the space provided below, provide a computation of any category of damages claimed by you. In addition, include a copy of or describe by category and location of, the documents or other evidentiary material, not privileged or protected from disclosure on which such computation is based, including materials bearing on the nature and extent of injuries suffered, making such documents or evidentiary material available for inspection and copying under Fed.R.Civ.P. 34. (Attach any copies and descriptions to Initial Disclosures as Attachment D.)

RESPONSE TO DISCLOSURE 8

Defendants claim no damages.

DISCLOSURE 9

If Defendants contend that some other person or legal entity is, in whole or in part, liable to the Plaintiff or Defendants in this matter, state the full name, address and telephone number of such person or entity and describe in detail the basis of such liability.

RESPONSE TO DISCLOSURE 9

Defendants are not aware of any other person or legal entity that is or may be liable to Plaintiffs or Defendants in this matter.

DISCLOSURE 10

Attach for inspection and copying as under Fed.R.Civ.P. 34 any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in this action or to indemnify or reimburse for payments to satisfy the judgment. (Attach copy of insurance agreement to Initial Disclosures as Attachment E.)

RESPONSE TO DISCLOSURE 10

Cobb County is not insured for this type of claim but maintains its own Risk Management Department and administers claims against it pursuant to O.C.G.A. § 45-9-21, *et seq.*

**CERTIFICATE OF TYPE STYLE**

This document was prepared using Times New Roman 14 point font.

This 15<sup>th</sup> of July, 2014.

COBB COUNTY ATTORNEY'S OFFICE  
Attorneys for Defendant

By: /s/H. William Rowling, Jr.

H. WILLIAM ROWLING, JR.

Deputy County Attorney

State Bar No. 617225

DEBORAH L. DANCE

County Attorney

State Bar No. 203765

100 Cherokee Street, Suite 350  
Marietta, GA 30090  
770-528-4000 (phone)  
770-528-4010 (facsimile)

## **ATTACHMENT A**

List of witnesses presently known to Defendants who may be used in support of their defenses<sup>1</sup>:

1. Defendants incorporate by reference all those persons identified by Plaintiffs in Attachment A to their Initial Disclosures.
2. Amy Barnes, Plaintiff
3. John Galczynski
4. Brian Scurr, Cobb County Police Department
5. Dipa Patel, Cobb County Police Department

Defendants reserve the right to amend Attachment A if any witness omissions have been made after additional investigation.

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<sup>1</sup> The Cobb County witnesses may be contacted through defense counsel.



### **ATTACHMENT C**

1. Cobb County Police Incident report (Case # 12-038257)
2. Warrant and warrant application (Warrant # 12-W-3349)
3. Patrol car video (and any enhancements or modifications thereof)
4. Cobb County Solicitor's prosecutorial file
5. State Court Clerk file
6. Transcripts of any hearings and/or trials in criminal case

Defendants incorporate by reference all those materials identified by Plaintiff in Attachment C to her Initial Disclosures.

Defendants reserve the right to amend Attachment C if any additional documents or materials are determined to be responsive after additional investigation.

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**CERTIFICATE OF SERVICE**

I hereby certify that on this day I electronically filed Defendants' Initial Disclosures with the Clerk of Court using the CM/ECF system which will automatically send e-mail notification of such filing to the following attorneys of record:

Cynthia L. Counts  
Counts Law Group  
400 Colony Square, Suite 200  
Atlanta, GA 30361

Gerald Weber  
Law Offices of Gerry Weber, LLC  
PO Box 5391  
Atlanta, GA 31107

This the 15th of July, 2014.

100 Cherokee Street, Suite 350  
Marietta, GA 30090  
770-528-4000 (phone)  
770-528-4010 (facsimile)

By: /s/H. William Rowling, Jr.  
H. WILLIAM ROWLING, JR.  
Deputy County Attorney  
State Bar No. 617225